

SENATE No. 1581

The Commonwealth of Massachusetts

PRESENTED BY:

Mr. Brewer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to certain blood tests.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Mr. Brewer	Worcester, Hampden, Hampshire and Franklin
Todd M. Smola	1st Hampden

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00803 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO CERTAIN BLOOD TESTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 24 of chapter 90 of the General Laws, as appearing in the 2004 Official
2 Edition, is hereby amended by inserting after the word “arrested”, in lines 504, 514, 515, 540,
3 553, 605, 617, and 654, each time it appears, the following words: - or cited.

4 SECTION 2. Said section 24 of said chapter 90, as so appearing, is hereby further amended by
5 inserting after the word “arrest”, in lines 542, 589, 607 and 716, each time it appears, the
6 following words: - or citation.

7 SECTION 3. Said section 24 of said chapter 90, as so appearing, is hereby further amended by
8 inserting after the word “arrest”, in line 691, the following words:- or issued a citation.

9 SECTION 4. Said chapter 90 is hereby further amended by inserting after section 24P, as
10 appearing in the 2004 Official Edition, the following: -

Section 24Q. Notwithstanding the provisions of section 70E of chapter 111 or section 1B of chapter 214, a health care provider, who provides medical treatment in a medical facility licensed under the provisions of section 51 of chapter 111 to a person who was involved in a motor vehicle accident and whose blood is tested for evidence of the percentage by weight, of alcohol, in the course of reasonable and medically necessary treatment, may notify the police department having jurisdiction of the location where the accident occurred of the results of such blood alcohol level; provided, however, that such health care provider reasonably believes such patient to be the operator of a motor vehicle involved in an accident; and provided further, that such patient's blood alcohol level meets or exceeds .08 or, if the patient is under 21 years of age, meets or exceeds .02.

Upon receipt of such notification, the police department shall conduct an investigation into the accident and such a patient's operation of a motor vehicle. If such department arrests or issues a citation alleging a violation of paragraph (a) of subdivision (1) of section 24, section 24G or section 24L, such department shall proceed to request a license suspension in accordance with the provisions of section 24N. Notice the suspension of such person's license or permit to operate shall be forwarded to the registry, in a format approved by the registrar.

If no arrest occurs or if no citation is issued, such department shall notify the registry of the results of such investigation, in a format approved by the registrar. The registrar shall provide to the subject of the investigation a notice of intent to suspend such person's license or permit to operate. Such person shall be entitled to a hearing on the suspension of his license or permit to operate, which request for hearing shall be made within 30 days of the registrar's notice. If a hearing is timely requested, the registrar shall hold a hearing. At such hearing, the issues shall be limited to the following: (i) did the subject of the hearing operate a motor vehicle involved in

34 such accident upon any way or in any place to which members of the public have a right of
35 access or upon any way to which members of the public have a right of access as invitees or
36 licensees, (ii) do hospital records of blood tests conducted on such person in the course of
37 reasonable and medically necessary treatment indicate that his blood alcohol level met or
38 exceeded .08 or, if the such person is under 21 years of age, met or exceeded .02. If, after
39 hearing, the registrar finds on either of such issues in the negative, the license or right to operate
40 shall not be suspended. Otherwise, the registrar shall suspend such license or right to operate for
41 90 days.

42 No health care provider, its employees or agents or any police department, officer or employee
43 or municipality or other state or federal agency or their employees shall be liable for any act or
44 omission pursuant to the provisions of this section.